

COPY

Glaser Weil Fink Jacobs  
Howard Avchen & Shapiro LLP

ADRIAN M. PRUETZ - State Bar No. 118215  
apruetz@glaserweil.com  
ERICA J. VAN LOON - State Bar No. 227712  
evanloon@glaserweil.com  
LAUREN GIBBS - State Bar No. 251569  
lgibbs@glaserweil.com  
GLASER WEIL FINK JACOBS  
HOWARD AVCHEN & SHAPIRO LLP  
10250 Constellation Boulevard, 19th Floor  
Los Angeles, California 90067  
Telephone: (310) 553-3000  
Facsimile: (310) 556-2920

Attorneys for Plaintiff  
WowWee Group Limited

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

WOWWEE GROUP LIMITED, a Hong  
Kong company,

Plaintiff,

v.

MICHAEL WALLACE, an individual;  
PURE IMAGINATION, LLC, a limited  
liability company; 628 DESIGN LLC, a  
limited liability company; and DOES 1  
through 10,

Defendants.

CV12-02298 JH(VBKx)

CASE NO.: \_\_\_\_\_

COMPLAINT FOR:

- (1) DECLARATORY JUDGMENT  
OF NONINFRINGEMENT;
  - (2) ANTICIPATORY BREACH OF  
CONTRACT; AND
  - (3) PROMISSORY ESTOPPEL
- [JURY TRIAL DEMANDED]

FILED  
12 MAR 19 PM 1:10  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

1 Plaintiff WowWee Group Limited (“WowWee” or “Plaintiff”) submits the  
 2 following Complaint against defendants Michael Wallace, Pure Imagination, LLC,  
 3 628 Design LLC, and DOES 1-10 (collectively “Defendants”) and alleges as follows:

#### 4 JURISDICTION AND VENUE

5 1. This Complaint arises under the Declaratory Judgment Act, 28 U.S.C. §  
 6 2201, *et seq.* and the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

7 2. This Court has original jurisdiction under 28 U.S.C. §§ 1331, 1338, 2201  
 8 and 2202. In addition, the Court has jurisdiction over this action under 28 U.S.C. §  
 9 1332, in that there is diversity of citizenship and the amount in controversy exceeds  
 10 the sum or value of \$75,000, exclusive of interest and costs. This Court has  
 11 supplemental jurisdiction under 28 U.S.C. § 1367 because the claims are so related as  
 12 to form part of the same case or controversy.

13 3. This Court has personal jurisdiction over Defendants and venue in this  
 14 District is proper under 28 U.S.C. § 1391(b) and (c) because Defendants solicit,  
 15 transact and do business in this District, a substantial part of the wrongful acts or  
 16 omissions complained of occurred in this District, and Defendants are subject to  
 17 personal jurisdiction in this District.

18 4. An immediate, real and substantial controversy exists between WowWee  
 19 and Defendants with respect to, among other things, whether WowWee has infringed  
 20 or infringes, directly, indirectly, contributorily, or by inducement, any patent or other  
 21 intellectual property purportedly owned by Defendants.

#### 22 THE PARTIES

23 5. WowWee is a Hong Kong company, with its principal place of business  
 24 at Energy Plaza, Suite 301C, 92 Granville Road, TST East, Kowloon, Hong Kong.

25 6. On information and belief, Defendant Michael Wallace is a Washington  
 26 citizen. On information and belief, Wallace is currently, and was at all times relevant  
 27 to this Complaint, conducting substantial business in the State of California and did  
 28 engage in conduct that gives rise to WowWee’s claims in the State of California.

1           7.       On information and belief, Pure Imagination, LLC is a Washington  
2 limited liability company with its principal place of business at 705 Main Street, Suite  
3 201, Vancouver, Washington 98660. On information and belief, Pure Imagination,  
4 LLC is currently, and was at all times relevant to this Complaint, conducting  
5 substantial business in the State of California and did engage in conduct that gives  
6 rise to WowWee's claims in the State of California. (Wallace and Pure Imagination,  
7 LLC shall be referred to collectively as "Pure Imagination.")

8           8.       On information and belief, Defendant 628 Design LLC is a California  
9 limited liability company with its principal place of business at 1140 E. Franklin  
10 Avenue, Suite A, El Segundo, California 90245. On information and belief, 628  
11 Design LLC is a resident of California and is currently, and was at all times relevant  
12 to this Complaint, conducting substantial business in the State of California and did  
13 engage in conduct that gives rise to WowWee's claims in the State of California.  
14 (628 Design LLC shall be referred to as "628 Design.")

15           9.       WowWee is unaware of the true names and capacities of Defendants  
16 sued hereunder as DOES 1 through 10 inclusive, and therefore sues these Defendants  
17 by such fictitious names. WowWee is informed and believes and thereon alleges that  
18 each of the fictitiously named Defendants is responsible in some manner for the  
19 occurrences herein alleged, and that WowWee's damages as herein alleged were  
20 proximately caused by their conduct. WowWee will amend this complaint to allege  
21 the true names and capacities of the defendants DOES 1 through 10 when ascertained.

22           10.      WowWee is informed and believes and thereon alleges that at all times  
23 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
24 manager, principal, alter-ego and/or employee of the other Defendants and was at all  
25 times acting within the scope of such agency, affiliation, alter-ego relationship and/or  
26 employment and actively participated in, or subsequently ratified and adopted, or  
27 both, each and all of the acts or conduct alleged herein, with full knowledge of all the  
28 facts and circumstances.

**FACTUAL ALLEGATIONS**

**WOWWEE AND DEFENDANTS' LICENSE AGREEMENT**

11. WowWee is a leading designer, developer, marketer and distributor of innovative hi-tech consumer robotic and entertainment products. WowWee is headquartered in Hong Kong. Its products are sold directly to customers and through distributors, including its affiliate in Carlsbad, California.

12. With a focus on the development of breakthrough consumer technologies, WowWee continues to forge new categories in personal robotics and entertainment with its imaginative, innovative and award-winning gadgets and toys. WowWee has several distinct product lines – WowWee Robotics®, Paper Jamz®, Light Strike®, Lite Sprites™, WowWee Alive®, WowWee FlyTech®, and WowWee Technologies™ – that include innovations that walk, talk, jam, fire, color, purr, fly, and project.

13. WowWee has amassed an in-house team of engineers and designers that have a proven ability to develop world-class products. At times, WowWee also integrates third-party technologies to realize substantial untapped value.

14. In early 2009, Defendants contacted WowWee regarding creating, marketing and selling a line of toy products.

15. Defendants and WowWee entered into a license agreement with an effective date of April 14, 2009, whereby WowWee licensed certain properties from Defendants (the "License Agreement"). A true and correct copy of the License Agreement and Schedule A.2 (as amended by the Parties) is filed conditionally under seal as Exhibit 1.

16. Specifically, Schedule A.2 defines "Licensed Products" as:

(A) Micro vehicles, any material, with or without music features, free wheeling or otherwise, less than 1/64 scale; (B) Micro figures, any material, with or without music features, non mechanized or otherwise, 3" or less in size; (C) Micro playsets, any material, with or without music features, which are scaled to and used solely to house and interact with described micro figures and micro vehicles; (D) Body Buddy Doll, a rag doll that uses the Licensed Property to

1 call out body parts and functions through the use of an LCD stethoscope or  
2 other accessory that animates body parts when called out; and (E) Musical  
3 instruments, excluding preschool products, made out of paper or cardboard or  
4 some other inexpensive material that uses the technology to allow user to create  
5 music and play musical songs. . . .

6 17. Pursuant to the License Agreement, WowWee began selling Paper Jamz  
7 toy musical instruments in early 2010.

8 **WOWWEE'S LIGHT STRIKE TOY LINE**

9 18. In early 2010, WowWee began developing two new toy lines, Light  
10 Strike and Lite Sprites, which feature and showcase light and color based technology  
11 licensed from Koninklijke Philips Electronics N.V. ("Philips").

12 19. Light Strike is a toy gun line that uses light and color based technology  
13 to "bring video game action into the real-world" with a set of "strikers" and  
14 accessories that sport fingerprint ID, long-range LED targeting, built-in health and  
15 ammo meters, and the ability to play with up to four teams of unlimited size.

16 20. Defendants knew WowWee was creating and developing the Light Strike  
17 line and expressly asserted that the Light Strike products did not fall within the  
18 purview of the License Agreement.

19 21. Accordingly, Light Strike was developed by WowWee entirely in-house  
20 and Defendants did not work with or assist WowWee in creating and developing this  
21 line.

22 22. The touch based technology used in the Light Strike line is very  
23 simplistic and based on established techniques that are in the public domain.

24 23. The Light Strike toys do not use any proprietary touch technology. Nor  
25 is the touch technology used in the Light Strike toys a modification, improvement,  
26 enhancement or extension of the touch technology utilized in the Licensed Products.  
27  
28

1                   **THE ROYALTY PAYMENT AMENDMENT TO THE LICENSE**  
2                                   **AGREEMENT**

3           24.    On November 18, 2011, WowWee and Pure Imagination amended the  
4 License Agreement to provide a payment plan for WowWee with respect to royalties  
5 which were then due under the License Agreement (“Royalty Payment Amendment”).  
6 A true and correct copy of the Royalty Payment Amendment is filed conditionally  
7 under seal as Exhibit 2.

8           25.    The Royalty Payment Amendment also provided that “with respect to the  
9 calculation of Net Sales and the payment of Royalties for the fourth quarter of 2011,  
10 if the amount of actual permitted deductions from the gross invoice price fall short of  
11 ten percent (10%) of the gross invoice price for such quarter, WowWee may withhold  
12 the Royalties attributable to such shortfall as a reserve against potential allowances,  
13 returns and refunds with respect to the Licensed Products reported as sold in such  
14 quarter.” Ex. 2 at ¶ 3.

15                   **DEFENDANTS’ UNFOUNDED CLAIMS OF BREACH AND REPUDIATION**

16           26.    On February 23, 2012, Defendants sent WowWee a “Notice of Material  
17 Breach and Termination of License Agreement with Pure Imagination and 628  
18 Design” (the “February 23 Notice”). A true and correct copy of this letter is attached  
19 hereto as Exhibit 3.

20           27.    On March 1, 2011, WowWee responded to Defendants’ unfounded  
21 allegations.

22           28.    On March 6, 2012, Defendants sent a “Notice of Failure to Cure and  
23 Second Notice of Material Breach and Termination of License Agreement with Pure  
24 Imagination and 628 Design” (the “March 6 Notice”). A true and correct copy of this  
25 notice is attached hereto as Exhibit 4.

26           29.    Defendants alleged in the February 23 Notice that WowWee breached  
27 the License Agreement by the following:  
28



- a. Failure to accurately report royalties for the fourth quarter of 2011 and specifically, failure to provide proper detail regarding WowWee's deductions from gross royalties in calculating net royalties;
- b. Failure to pay all royalties due on Paper Jamz products for the fourth quarter of 2011; and
- c. Failure to provide Defendants with a copy of a settlement agreement between WowWee and Borei.

30. In their February 23 Notice, Defendants threatened that if the alleged breaches were not cured, they would terminate the License Agreement and "[a]t that time, we will issue a press release disclosing the termination of the License Agreement so that innocent retailers will be advised that further purchases of Paper Jamz products will constitute patent infringement."

31. In their March 6 Notice, Defendants asserted for the first time that WowWee also owed royalty payments for the Light Strike line. Specifically, Defendants stated:

[I]n material breach of the License, WowWee failed to notify Pure Imagination and 628 Design of new product developments and sales, failed to provide royalty reports, and failed to make royalty payments, concerning a line of toy guns called "Light Strike" which incorporates the Licensed Property. The License Agreement clearly states that all modifications, improvements, enhancements and/or extensions of the Licensed Property (hereinafter "New Developments") are owned by Pure Imagination. The Light Strike toy lines are New Developments requiring disclosure, reporting of sales, and royalties under the License Agreement. WowWee failed to disclose the development, production and sales of this line, and failed to pay royalties on those sales. Accordingly, absent immediate cure, the License shall automatically terminate on March 19, 2012.

32. Defendants further stated that "any use of the Licensed Property will constitute the deliberate and willful infringement and/or misappropriation of Licensor's intellectual property rights."

**WOWWEE DID NOT BREACH THE LICENSE AGREEMENT**

33. WowWee is not in material breach of the License Agreement and Defendants' claims of breach as set forth above are unfounded and are not a valid basis for unilaterally terminating the License Agreement, for at least the following reasons.

34. First, WowWee paid the royalties Defendants alleged in the February 23 Notice were unpaid, as well as the penalty interest. Thus, such alleged breach was cured and cannot be the basis for termination of the Licensing Agreement.

35. Second, WowWee's royalty reports were sufficiently detailed with regard to deductions taken by WowWee in calculating net royalties. In addition, any alleged deficiencies were rendered moot and immaterial by the parties' Royalty Payment Amendment. Specifically, the Royalty Payment Amendment provided that to the extent that actual permitted deductions from the gross invoice price fall short of 10% of the gross invoice price for the fourth quarter, WowWee was allowed to withhold Royalties attributable to such shortfall. Ex. 2 at ¶ 3. WowWee exercised its right and withheld 10% of the gross invoice price. Accordingly, any alleged insufficiencies in detail were irrelevant and immaterial because WowWee withheld the flat 10% deduction.

36. Third, the settlement agreement between Borei and WowWee and related correspondence ("Borei Settlement Agreement") was, by its terms, confidential. Accordingly, WowWee was obligated not to disclose the Borei Settlement Agreement to Defendants. As a matter of public policy, the License Agreement cannot be interpreted in a manner that obligates WowWee to breach its agreement with Borei. Further, Defendants could gather the information they allegedly needed from the public record, including court filings and information concerning Borei's patents.

37. Fourth, the Light Strike products are not a "Licensed Product" requiring payment of royalties under the License Agreement. Exhibit 1 at ¶15.



1 38. Fifth, the Light Strike line does not use any proprietary technology, and  
2 the touch technology used in the toys is not a “modification, improvement,  
3 enhancement and/or extension” of any “Licensed Property,” as defined in the License  
4 Agreement.

5 39. Accordingly, WowWee is not in material breach of the License  
6 Agreement and Defendants have no valid basis for terminating the License  
7 Agreement.

8 **FIRST CLAIM FOR RELIEF**

9 **(Declaratory Judgment of Noninfringement)**

10 40. WowWee realleges and incorporates by reference each and every  
11 allegation contained in the above paragraphs as if fully set forth herein.

12 41. Defendants maintain that WowWee’s Light Strike product line infringes  
13 patents or other intellectual property rights allegedly owned by Defendants.

14 42. WowWee denies that it has committed direct, contributory, induced  
15 and/or joint infringement of patents or other intellectual property rights owned by  
16 Defendants.

17 43. Accordingly, there exists an immediate, real and substantial controversy  
18 as to whether WowWee infringed patents or other intellectual property rights owned  
19 by Defendants.

20 44. WowWee seeks a declaratory judgment that it has not infringed patents  
21 or other intellectual property rights owned by Defendants directly or by contributory,  
22 induced or joint infringement.

23 **SECOND CLAIM FOR RELIEF**

24 **(Anticipatory Breach of Contract by Defendants)**

25 45. WowWee realleges and incorporates by reference each and every  
26 allegation contained in the above paragraphs as if fully set forth herein.

27 46. Defendants owe a duty to WowWee to perform their obligations under  
28 the License Agreement. Specifically, Defendants owe WowWee a duty to grant,

1 assign, transfer, and convey to WowWee the right, privilege, and license to develop,  
2 make, manufacture, or to have made and manufactured, market, distribute and sell  
3 Licensed Products, including the Paper Jamz toys.

4 47. WowWee has performed all conditions, covenants and promises on its  
5 part to be performed.

6 48. Defendants have anticipatorily breached the License Agreement by,  
7 among other things, clearly and expressly stating that they are unilaterally terminating  
8 the License Agreement on March 19, 2012, as set forth in Exhibits 3 and 4.

9 49. Performance by Defendants is not yet due.

10 50. WowWee is ready, willing and continues to pay royalty payments for  
11 Licensed Products as required by the License Agreement.

12 51. By reason of Defendants' anticipatory breach, WowWee will suffer  
13 damages in a total amount to be determined according to proof at trial.

14 52. By reason of Defendants' anticipatory breach, WowWee is also entitled  
15 to recover pre-judgment and post-judgment interest, costs and attorneys' fees in  
16 amounts to be proven at trial.

17 53. WowWee is likely to prevail on its claims, but WowWee's remedy at  
18 law is not adequate. Unless Defendants are enjoined during the pendency of this  
19 action from terminating the License Agreement and/or issuing a press release  
20 announcing the purported termination of the License Agreement, as Defendants have  
21 threatened to do, WowWee will suffer immediate and irreparable harm, which cannot  
22 be compensated by money damages.

23 **THIRD CLAIM FOR RELIEF**

24 **(Promissory Estoppel)**

25 54. WowWee realleges and incorporates by reference each and every  
26 allegation contained in the above paragraphs as if fully set forth herein.

27 55. Defendants made clear and definite promises to WowWee that the Light  
28 Strike toys were not a "Licensed Product" and did not fall within the purview of the

1 License Agreement. Defendants also made clear and definite promises that they did  
2 not and would not claim any royalty entitlement under the License Agreement in  
3 connection with the creation, development or sale of the Light Strike toy line.

4 56. Defendants intended to induce reliance and/or knew or should have  
5 reasonably expected that their promises would induce WowWee to independently  
6 create, develop and sell the Light Strike toy line.

7 57. WowWee developed and marketed the Light Strike toy line in reliance  
8 on Defendants' promises, as described above.

9 58. Defendants are estopped from reneging on these promises to WowWee  
10 under the doctrine of promissory estoppel.

11 59. WowWee has been harmed as a result of its reasonable reliance on  
12 Defendants' promises and is threatened by the imminent loss of profits, loss of  
13 customers and potential customers, and loss of goodwill and product image.

14 60. WowWee will suffer injustice and irreparable injury by reason of the acts  
15 and conduct of Defendants alleged above until and unless the Court enforces  
16 Defendants' promises.

### 17 **PRAYER FOR RELIEF**

18 WHEREFORE, WowWee prays for judgment as follows:

19 1. For a declaratory judgment that WowWee does not infringe and has not  
20 infringed any patent or other intellectual property allegedly owned by Defendants  
21 directly, contributorily, by inducement or by joint infringement;

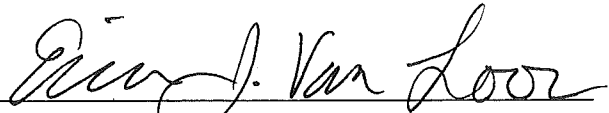
22 2. For an injunction prohibiting Defendants from terminating the License  
23 Agreement and/or issuing a press release announcing the purported termination of the  
24 License Agreement;

25 3. For damages in an amount to be proven at trial;

26 4. For all attorneys' fees and costs and other costs and expenses incurred by  
27 WowWee in this action; and  
28

1           5.     That WowWee be granted such other and further relief as the Court  
2 deems just and proper.

3  
4 DATED: March 19, 2012

By: 

ADRIAN M. PRUETZ

ERICA J. VAN LOON

LAUREN M. GIBBS

GLASER WEIL FINK JACOBS

HOWARD AVCHEN & SHAPIRO LLP

10250 Constellation Blvd., 19th Floor

Los Angeles, Ca 90067

*Attorneys for Plaintiff*

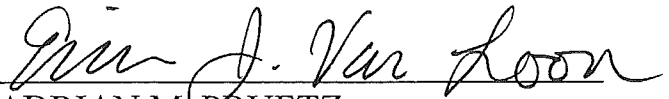
*WowWee Group Limited*

Glaser Weil Fink Jacobs  
Howard Avchen & Shapiro LLP

**DEMAND FOR JURY TRIAL**

Plaintiff WowWee respectfully requests a jury trial on all issues triable by jury.

DATED: March 19, 2012

By: 

ADRIAN M. PRUETZ

ERICA J. VAN LOON

LAUREN M. GIBBS

GLASER WEIL FINK JACOBS

HOWARD AVCHEN & SHAPIRO LLP

10250 Constellation Blvd., 19th Floor

Los Angeles, Ca 90067

*Attorneys for Plaintiff*

*WowWee Group Limited*

Glaser Weil Fink Jacobs  
Howard Avchen & Shapiro LLP

**EXHIBIT 1**



**Exhibit 1**  
**(Filed Conditionally Under Seal)**

BLUEBIRD (800) 477-1111  
www.bluebird.com  
OFFICE SUPPLIES

EXHIBIT 2

**Exhibit 2**  
**(Filed Conditionally Under Seal)**

**EXHIBIT 3**

**Exhibit 3**

**ANTIDOTE**  
Business Focused Legal Advice

**Scott Landsbaum**  
Principal

8306 Wilshire Blvd., Ste. 420  
Beverly Hills, CA 90211

v 323.314.7881  
f 877.240.2150

scott@scottlandsbaum.com  
www.scottlandsbaum.com

VIA EMAIL AND OVERNIGHT DELIVERY

February 23, 2012

WowWee Group Limited  
c/o WowWee Canada Inc.  
3500 de Maisonneuve Blvd. W., Suite 800  
Montreal, Quebec  
Canada H3Z 3C1  
Attn: Leon Garfinkle

Re: Notice of Material Breach and Termination of License Agreement with  
Pure Imagination and 628 Design

Dear Leon,

This letter serves as notice that WowWee has failed and continues to fail to pay and accurately report royalties for the fourth quarter of 2011; that such failures are material breaches of the above License Agreement; and that the License Agreement shall terminate in ten (10) calendar days pursuant to Section 9(a) of the License Agreement unless such breaches are fully and completely cured through the provision of an accurate royalty report and the payment of all royalties due together with interest at the rate of 1% per month.

In addition, Pure Imagination and 628 Design previously requested from WowWee a copy of its settlement agreement with Borei, which you have declined to provide. Section 5(c) of the License Agreement requires WowWee "to cooperate fully and in good faith with Licensor for the purpose of securing and preserving Licensor's rights." The foregoing settlement agreement and all related correspondence and documents are necessary for us to determine whether Borei has infringed on any of our rights and must be produced to us pursuant to the License Agreement. WowWee's failure to provide such documents is a material breach of the License Agreement which must be cured.

If WowWee fails to cure the above breaches, on the termination of the License Agreement: (i) all rights in the Licensed Property shall revert immediately to Licensor; (ii) WowWee shall have no sell-off period and no further right to manufacture, distribute, sell, market or advertise any Paper Jamz or other Licensed Products; and (iii) any use of the Licensed Property after such date shall



WowWee Group Ltd. – Notice of Material Breach of License Agreement

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constitute the deliberate and willful infringement of Licensor's intellectual property rights. At that time, we will issue a press release disclosing the termination of the License Agreement so that innocent retailers will be advised that further purchases of Paper Jamz products will constitute patent infringement.

Last, pursuant to our prior notice of audit, Elliot Greller will contact you shortly regarding his pre-audit needs and to schedule the actual audit.

We fully intend to enforce our rights under the contract both in arbitration for the breach of contract and in court to prevent the unauthorized use of our intellectual property. WowWee will be liable for damages under the contract, interest, our attorneys' fees, and treble damages for the willful infringement of our patents.

We look forward to WowWee's prompt and full compliance with the License Agreement. All further communications on this matter should be directed to my office.

*This letter is not intended to be and shall not be construed as a complete statement of the facts pertaining to this matter and is written with a full reservation of all claims, causes of action, rights, remedies and positions.*

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Landsbaum", with a stylized flourish at the end.

Scott Landsbaum

cc: Mike Wallace  
Darin Barri



**Exhibit 4**

**ANTIDOTE**  
Business Focused Legal Advice

**Scott Landsbaum**  
Principal

8306 Wilshire Blvd., Ste. 420  
Beverly Hills, CA 90211

v 323.314.7881  
f 877.240.2150

scott@scottlandsbaum.com  
www.scottlandsbaum.com

VIA EMAIL AND OVERNIGHT DELIVERY

March 6, 2012

WowWee Group Limited  
c/o WowWee Canada Inc.  
3500 de Maisonneuve Blvd. W., Suite 800  
Montreal, Quebec  
Canada H3Z 3C1  
Attn: Leon Garfinkle

Re: Notice of Failure to Cure and Second Notice of Material Breach and Termination,  
of License Agreement with Pure Imagination and 628 Design

Dear Leon,

This letter serves as notice that WowWee has failed and continues to fail to cure the February 23, 2012 Notice of Material Breach related to Borei. Accordingly, pursuant to the License, absent the required cure, set forth in the February 23, 2012 Notice, the License shall automatically terminate on March 26, 2012.

Second, this letter further serves as a new and Second Notice of Material Breach and Termination. Specifically, in material breach of the License, WowWee failed to notify Pure Imagination and 628 Design of new product developments and sales, failed to provide royalty reports, and failed to make royalty payments, concerning a line of toy guns called "Light Strike" which incorporates the Licensed Property. The License Agreement clearly states that all modifications, improvements, enhancements and/or extensions of the Licensed Property (hereinafter "New Developments") are owned by Pure Imagination. The Light Strike toy lines are New Developments requiring disclosure, reporting of sales, and royalties under the License Agreement. WowWee failed to disclose the development, production and sales of this line, and failed to pay royalties on those sales. Accordingly, absent immediate cure, the License shall automatically terminate on March 19, 2012.

Upon automatic termination: (i) all rights in the Licensed Property automatically reverted to Licensor; (ii) WowWee will have no sell-off period and no further right to manufacture, distribute, sell, market or advertise any Paper Jamz or other Licensed Products; and (iii) any use

WowWee Group Ltd. – Notice of Material Breach of License Agreement

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of the Licensed Property will constitute the deliberate and willful infringement and/or misappropriation of Licensor's intellectual property rights.

At such automatic termination, we will require and demand, as per our rights, WowWee:

1. Immediately cease and desist all previously licensed activities under the License Agreement, including but not limited to immediate cessation of all development, manufacture, use, sales, offers for sale, import and export of products which incorporate any portion of the Licensed Property, by WowWee and any of WowWee's affiliates, sublicensees, subcontractors, and agents;
2. Immediately cease and desist all development, manufacture, use, sales, offers for sale, import and export of the Light Strike line of toys and products, by WowWee and any of WowWee's affiliates, sublicensees, subcontractors, and agents;
3. Within five (5) days, deliver an accounting of all sales of, and all gross profits from, the Light Strike guns, including by WowWee and any of WowWee's affiliates, sublicensees, subcontractors, and agents;
4. Within five (5) days, disclose all modifications, improvements, enhancements and/or extensions of the Licensed Property which were developed by WowWee, are currently being developed by WowWee, or are intended to be developed by WowWee, or any of WowWee's affiliates, sublicensees, subcontractors, or agents;
5. Within five (5) days, return all confidential and proprietary property and information of Licensor and/or 628 Design which is in the possession or control of WowWee or any of WowWee's affiliates, sublicensees, subcontractors, or agents; and,
6. That WowWee cooperate fully with Pure Imagination in securing and perfecting its ownership rights in the Licensed Property, including any New Developments, pursuant to its obligations to assist under the License Agreement, and cause WowWee's affiliates, sublicensees, subcontractors and agents to do the same.

This letter is not intended to be and shall not be construed as a complete statement of the facts pertaining to this matter. Pure Imagination and 628 Design reserve all rights, claims, causes of actions, and remedies available to them at law and equity.

Sincerely,



Scott Landsbaum

cc: Mike Wallace  
Darin Barri

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Jacqueline Nguyen and the assigned discovery Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

**CV12- 2298 JHN (VBKx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



## Name &amp; Address:

ADRIAN M. PRUETZ - State Bar No. 118215  
 GLASER WEIL FINK JACOBS  
 HOWARD AVCHEN & SHAPIRO LLP  
 10250 Constellation Boulevard, 19th Floor  
 Los Angeles, California 90067

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

WowWee Group Limited, a Hong Kong company,

CASE NUMBER

PLAINTIFF(S)

v.

Michael Wallace, an individual; Pure Imagination,  
 LLC, a limited liability company; 628 Design LLC, a  
 limited liability company; and DOES 1 through 10,

DEFENDANT(S).

CV12-02298

JIN (VBKx)

## SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Adrian M. Pruetz, whose address is 10250 Constellation Blvd., 19th Floor, Los Angeles, California 90067. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

MAR 19 2012

Dated: \_\_\_\_\_

Clerk, U.S. District Court

JULIE PRADO

By: \_\_\_\_\_

Deputy Clerk

(Seal of the Court)

SEAL

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) WOWWEE GROUP LIMITED		<b>DEFENDANTS</b> MICHAEL WALLACE, an individual; PURE IMAGINATION, LLC, a limited liability company; 628 DESIGN LLC, a limited liability company; and DOES 1 through 10,	
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  GLASER WEIL FINK JACOBS HOWARD AVCHEN & SHAPIRO LLP 10250 Constellation Boulevard, 19th Floor Los Angeles, California 90067 Telephone: (310) 553-3000		Attorneys (If Known)	

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. ORIGIN** (Place an X in one box only.)

☒ 1 Original Proceeding    
 ☐ 2 Removed from State Court    
 ☐ 3 Remanded from Appellate Court    
 ☐ 4 Reinstated or Reopened    
 ☐ 5 Transferred from another district (specify): \_\_\_\_\_    
 ☐ 6 Multi-District Litigation    
 ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT:** JURY DEMAND: ☒ Yes   ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION under F.R.C.P. 23:** ☐ Yes   ☒ No     **MONEY DEMANDED IN COMPLAINT:** \$ Damages according to proof

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 Declaratory judgment of noninfringement (28 U.S.C. § 2201, et seq. and 35 U.S.C. § 1, et seq.); anticipatory breach of contract; and promissory estoppel

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER</b> <b>PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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CV12-02298

FOR OFFICE USE ONLY: Case Number: \_\_\_\_\_

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Hong Kong (WowWee Group Limited)

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles (628 Design LLC)	Washington (Michael Wallace) Washington (Pure Imagination, LLC)

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	Hong Kong

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): *Eugene J. Vanden* Date 3/19/2012

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))